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# County of San Diego

## CITIZENS' LAW ENFORCEMENT REVIEW BOARD

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### FINAL NOTICES

The Citizens' Law Enforcement Review Board made the following findings in the closed session portion of its March 8, 2011 meeting, held at the San Diego County Administration Center, 1600 Pacific Highway, Room 302/303, San Diego, CA 92101. Minutes of the open session portion of this meeting will be available following the Review Board's review and adoption of the minutes at its next meeting. Meeting agendas, minutes, and other information about the Review Board are available upon request or at [www.sdcountry.ca.gov/clerb](http://www.sdcountry.ca.gov/clerb).

### CLOSED SESSION

- a) **Discussion & Consideration of Complaints & Reports:** Pursuant to Government Code Section 54957 to hear complaints or charges brought against Sheriff or Probation employees by a citizen (unless the employee requests a public session).

DEFINITION OF FINDINGS	
Sustained	The evidence supports the allegation and the act or conduct was not justified.
Not Sustained	There was <u>insufficient evidence</u> to either prove or disprove the allegation.
Action Justified	The evidence shows the alleged act or conduct did occur but was lawful, justified and proper.
Unfounded	The evidence shows that the alleged act or conduct did not occur.
Summary Dismissal	The Review Board lacks jurisdiction or the complaint clearly lacks merit.

### CASES FOR SUMMARY HEARING (7)

### ALLEGATIONS, FINDINGS & RATIONALE

#### 10-007

1. Misconduct/Procedure – Deputy 1 improperly classified the complainant resulting in injury.

Board Finding: Summary Dismissal

Rationale: Court decisions applicable to the Review Board and Government Code §3304(d) of the Public Safety Officers' Procedural Bill of Rights require that an investigation of a misconduct allegation that could result in discipline be completed within one year of discovery of the allegation, unless statutory exceptions apply. A review of the complaint showed no exceptions applied. Staff did not complete investigation of the complaint within one year, therefore the Review Board lacks jurisdiction.

2. Misconduct/Procedure – Deputy 1 confiscated the complainant's wheelchair without cause.

Board Finding: Summary Dismissal

Rationale: See #1.

3. Misconduct/Procedure – Deputy 1 improperly processed and/or delayed providing the complainant with Internal Affairs correspondence.

Board Finding: Summary Dismissal

Rationale: See #1.

4. Misconduct/Medical – The Sheriff's Department failed to provide proper medical care to the complainant.

Board Finding: Summary Dismissal

Rationale: CLERB has no jurisdiction over medical issues related to non-sworn personnel and this matter was referred back to the Sheriff's Department for further investigation.

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## **10-008**

1. Misconduct/Procedure – Deputy 1 issued no warnings and/or directives to the complainant before “attacking” him

Board Finding: Summary Dismissal

Rationale: Court decisions applicable to the Review Board and Government Code §3304(d) of the Public Safety Officers' Procedural Bill of Rights require that an investigation of a misconduct allegation that could result in discipline be completed within one year of discovery of the allegation, unless statutory exceptions apply. A review of the complaint showed no exceptions applied. Staff did not complete investigation of the complaint within one year, therefore the Review Board lacks jurisdiction.

2. Excessive Force – Deputy 1 beat the complainant to the point of unconsciousness.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

3. Misconduct/Procedure – Deputy 1 delayed seeking medical treatment and/or medication for the injured complainant.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

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## **10-011**

1. Deputy 3 racially profiled the aggrieved.

Board Finding: Summary Dismissal

Rationale: Court decisions applicable to the Review Board and Government Code §3304(d) of the Public Safety Officers' Procedural Bill of Rights require that an investigation of a misconduct allegation that could result in discipline be completed within one year of discovery of the allegation, unless statutory exceptions apply. A review of the complaint showed no exceptions applied. Staff did not complete investigation of the complaint within one year, therefore the Review Board lacks jurisdiction.

2. Illegal Search & Seizure – Deputy 1 patted down the aggrieved.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

3. Discrimination/Other – Deputies 1 and/or 2 mistook the aggrieved’s disabilities from Autism as suspicious behaviors while detaining him as a robbery suspect.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

4. Misconduct/Procedure – Deputies 1 and/or 2 refused the aggrieved’s requests to call his parents while he was detained, telling him it wasn’t necessary.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

5. Misconduct/Discourtesy – Deputy 2 was rude (unprofessional, hostile, defensive) to the complainant on the phone.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

6. Misconduct/Discourtesy – Deputy 2 encouraged the complainant to “go right ahead” and file a complaint about her phone etiquette.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

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#### **10-014**

1. Misconduct/Harassment - Deputy 6 “singled out” and “harassed” the aggrieved, the complainant’s son, on numerous occasions.

Board Finding: Summary Dismissal

Rationale: Court decisions applicable to the Review Board and Government Code §3304(d) of the Public Safety Officers’ Procedural Bill of Rights require that an investigation of a misconduct allegation that could result in discipline be completed within one year of discovery of the allegation, unless statutory exceptions apply. A review of the complaint showed no exceptions applied. Staff did not complete investigation of the complaint within one year, therefore the Review Board lacks jurisdiction.

2. Misconduct/Intimidation - Deputy 6 told the aggrieved she would “put the word out” to other deputies to pull the aggrieved over in his vehicle if the aggrieved was not forthcoming when questioned.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

3. False Reporting - Deputy 6 alleged that the aggrieved and his older brother were involved in illegal activity, thefts, and property damage.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

4. Illegal Search & Seizure - Deputy 6 “through a stretch of her imagination and without substantial probable cause convinced” a judge to sign a search warrant for stolen items at the complainant’s home.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

5. Illegal Search & Seizure - Deputies 1-6 served a search warrant on the complainant's home in violation of the family's privacy and due process rights, resulting in a search that produced none of the stolen items.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

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### **10-015**

1. Excessive Force – Deputies 1 - 4 slammed the aggrieved to the ground and placed a knee into his back resulting in a broken shoulder.

Board Finding: Summary Dismissal

Rationale: Court decisions applicable to the Review Board and Government Code §3304(d) of the Public Safety Officers' Procedural Bill of Rights require that an investigation of a misconduct allegation that could result in discipline be completed within one year of discovery of the allegation, unless statutory exceptions apply. A review of the complaint showed no exceptions applied. Staff did not complete investigation of the complaint within one year, therefore the Review Board lacks jurisdiction.

2. False Arrest – Deputy 1 arrested a mentally ill person who had just attempted suicide instead of taking him to County Mental Health.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

3. Misconduct/Medical – Jail medical staff only provided Ibuprofen to the aggrieved who had a broken shoulder.

Board Finding: Summary Dismissal

Rationale: CLERB has no jurisdiction over medical issues related to non-sworn personnel and this matter was referred back to the Sheriff's Department for further investigation.

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### **10-036**

1. Misconduct/Procedure – Deputy 1 threatened the complainant with arrest for non-cooperation, when he was unavailable to rectify the situation.

Board Finding: Action Justified.

Rationale: Deputy 1 left two recorded voice messages to the complainant stating that crime reports would be submitted if missing computer equipment was not returned to its owner. The recorded voice messages to the complainant factually reported that the business owner believed the complainant had removed the equipment without permission and if the equipment was not returned a crime report for grand theft report would be submitted. No suspects were identified in the Crime/Incident Report subsequently submitted. The evidence shows the alleged act or conduct did occur but was lawful, justified, and proper.

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### **10-109**

1. False Arrest – Deputies went to the complainant's home on October 17, 2010, arrested her and took her to a hospital against her wishes.

Board Finding: Summary Dismissal

Rationale: Per the complainant's request, CLERB has ceased investigation of this case based upon CLERB Rules & Regulations: 5.7 Withdrawal of Complaints.

2. False Arrest – Deputies arrested the complainant on November 11, 2010, at the Santee Rite Aid and took her to three different medical facilities against her wishes.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

3. Misconduct/Procedure – Deputies failed to investigate a complaint of Elder Abuse reported by the complainant on November 15, 2010, at the Santee Patrol Station.

Board Finding: Summary Dismissal

Rationale: See rationale #1